

PUBLIC HEARING

MAY 25, 2011

A public hearing of the Council of the County of Kaua'i was called to order by Jay Furfaro, Chair, Committee of the Whole, on Wednesday, May 25, 2011, at 8:42 a.m. at the Council Chambers, 3371-A Wilcox Road, Līhu'e, Kaua'i, and the presence of the following was noted:

Honorable Tim Bynum
Honorable Dickie Chang
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro, Council Chair

The Clerk read the notice of the public hearing on the following:

C 2011-159 Communication (05/05/2011) from the Mayor, Submitting His Supplemental Budget Communication For Fiscal Year 2011-2012 and Proposed Amendments To The Budget Bills,

which was ordered to print by the Council of the County of Kaua'i on May 18, 2011, and published in *The Garden Island* newspaper on May 19, 2011.

Chair Furfaro: For the members, before I suspend the rules for taking public testimony, the opportunity for individual Councilmembers will come up in our Special Council Meeting at 9:00. Each member will have an opportunity to deliver a message on the Operating Budget on Bill 2402, second reading. But, we also have the combined narrative on the Council's budget available at this time.

The hearing proceeded as follows:

ROB ABREW: I just have a couple questions and I am sort of trying to understand all of this. When we had the budget in March presented to us, we had an Unappropriate Surplus Fund equity of thirty-one million (31,000,000) or thirty-one million eight hundred sixty-seven dollars (\$31,867,000.00) and a final budget of one (1) sixty-four (64) nine (9). Then in March...I mean then in May, we had the supplemental budget come in and we had an Unappropriate Surplus Fund of fifty million two hundred sixty-nine dollars (\$50,000,269.00). So, from what I understand, after all the taxes and everything came in, we found twenty million dollars more (\$20,000,000.00) that we had on our bank accounts as surplus. If I understand that correctly. So, what I do not understand is if we had twenty million dollars (\$20,000,000.00) more in our equity...or unused equity, how the second budget was twenty-two (22)...twenty-one million dollars (\$21,000,000.00) higher? You think if we found money, the budget would go down, not up. That is my...it is twenty-one million dollars (\$21,000,000.00) higher. You know? We found that much money and so we are spending all of that money instead of finding...instead of finding twenty million (20,000,000), we are spending it. Either that or I think we are putting it in the Reserve Funds. But still, you think that would come out of the one hundred sixty-six million dollar (\$1606,000,000.00) budget.

The other question I have is, in this budget, I have found a couple of things for funding in Fiscal Year 13. I know the Fiscal Year runs from July 1st to next June 30th, and I am wondering...and the County operates from January 1st through December 31st, do we fund things in 2012 for Fiscal Year 13? That is my next question because I found a couple of things in there. So, I know it is sort of a question that I do not know has ever been answered. But there is an issue we might look at.

The next thing I have an issue with is all of the new Administration jobs that are not really put out to the public. They are just appointed by the Mayor and one (1) of them I really have a problem with is the Protocol Manager. For the County of Kaua'i, we need someone to tell all of us is the definition of "protocol" is the custom dealing with diplomatic procedures and etiquette. I would think that a nation would need a diplomatic procedures and etiquette.

Chair Furfaro: Excuse me. Rob, that was your first three (3) minutes. I will go ahead and give you another three (3) minutes.

Mr. Abrew: I just understand...I would think that a Nation would need a diplomatic Manager or maybe a State. But why do we as a County have to have a diplomatic Manager for four thousand (4,000) employees? To me, that is just ridiculous that we are spending money. People are losing their jobs and we are spending money.

The next thing is now that we are paying for the solid waste pick up, I do not understand why that number is going down. If we are bringing in more income than last year, why that number went up twice as much and not going down. The other thing I have on this, this might be a petty little thing, but in the automatic pickup cycle of the trash/solid waste, the County is giving those people a ninety-six (96) gallon trashcan that is worth one hundred dollars (\$100.00) a piece. The people that are not on the automated pickup do not get that benefit. They are not getting paid one hundred dollars (\$100.00). They are having to go out and buy their own trashcans. So, I do not know why half of the people paying the taxes do not have to spend one hundred dollars (\$100.00), when other people do. So, in my issue we are favoring the people on the automated routes with the County supplying their bins and the other half having to pay for themselves. So, to me I would think we would either get a credit for one hundred dollars (\$100.00) or everyone would have to pay for their cans. So, I believe that is all I had that I saw in here. Hopefully some questions get answered later. Thank you very much.

Chair Furfaro: Thank you, Rob. I might say that through the narrative, maybe we can answer some of your comments. Is there anyone here that would like to speak on the notice of the Operating Budget? As well as I will point out we would take testimony on CIP because it is part of the Budget Process. So, anyone wanting to speak on either of these items, please come up.

WALDEEN PALMEIRA: I am providing testimony on behalf of Hui Namakaiwo Wailua-Nui-A-Ho'āno, as well as Liko Martin. Before I start, I just wanted to ask if the testimony now at 8:30...started at 8:30 this morning, is this also for Bills for the second meeting that you will be doing later?

Chair Furfaro: This is testimony provided in the form of a public hearing for the public's benefit. You can testify on any of that, if you like, yes.

Ms. Palmeira:
come up later today?

I see. I guess my question whether these

Chair Furfaro: Well, the postings will come up as scheduled, as I spoke. And yes, we will take additional testimony then. But we are providing the public an opportunity to testify on the entire package that is scheduled in this notice for public hearing. That is what we are having this morning, is a public hearing. So, this is a time to speak. Before we go any further, I want to note that we have started your time. But Councilmember Yukimura, you have a question to address the Chairman?

Ms. Yukimura: I just wanted to clarify for Ms. Palmeira that this is the Public Hearing. We will be acting at the 9:30 meeting on the items, the Operating Budget, the CIP Budget and the tax rates.

Chair Furfaro: I am sorry if you felt you needed to clarify my statement. But that is exactly what I said. We are taking testimony again for those various Bills. But this is your opportunity for a public hearing, for all of those items.

Ms. Palmeira: Okay. Thank you. Basically, I wanted to testify on concerning the Capital Improvement portion, that is Bill No. 2403, and there are some items in the Bond Fund. I was here March 4. I believe that was before the 5th when Mayor Carvalho...before, I guess on the day before that new budget. However, let us see...two (2) items related to the landfill and the number 401-2001.601.30-00. The new landfill site acquisition study, five hundred sixty-four thousand nine hundred forty-five dollars (\$564,945.00). Again, as we testified at the last hearing, one (1) of the issues is on Environmental Assessment, EIS. The problem that I see is that you are funding the new Landfill and Resource Recovery Park Bond for four million five hundred thousand dollars (\$4,500,000.00). That is 40120316413000. It appears that the selection of the new landfill is being done with providing the funding for the acquisition of the lands in Kalepa for the landfill. However according to EIS rules and laws, you are really supposed to do the EIS prior to the selection and acquisition of the land for the EIS. That was the point made last time and we are opposed to this four and a half million dollar (\$4,500,000.000) bond for purchasing Kalepa because it is an area that is the water system and so forth. Environmentally it is not a good selection. I believe the process that went into selecting Kalepa was flawed and I understand that this study is for that purpose. I do not even believe it is enough money for the study of an EIS. The second reason...the first was environmental and the environment. The process is wrong by again, appropriating funding for purchasing the land prior to the EIS. Number two (2) is based on land title and this is what I brought up the last time. Under the laws of 1841 to 1842, Fundamental Law, his majesty Kamehameha III Kauikeaouli, promulgated laws of 1845, 46. The conveyance of the lands...the title to the lands of Kalepa are fraudulent. Basically, I just wanted to say that the issue is the land title.

Chair Furfaro: Excuse me. That was your first three (3) minutes. You go right ahead for your second three (3) minutes.

Ms. Palmeira: So, the leasing for example, Item 32(a) and the itemized budget. 32(a), leasing of one thousand (1,000) acres of land to farmers at Kalepa. Basically, County partnership with Grove Farm and Agribusiness Development Corporation, as part of proposed new landfill and Resource Recovery

Park, development funding including in the project. Also number nine (9), restore storm irrigation system at Kalepa-Public Works, CIP Bond Fund 401-2031.641.30. I guess that is the same item for the purchase acquisition. So, again, that is the second point, is based on land title. Another reference to the land title is named Naukana. That is probate 463. Again, these are lands of Kauikeaouli, Kamehameha III. We are opposed at this time until the cloud on the title is clarified. One (1) more item. Two (2) more items have to deal with Transportation Projects. I am not sure if under the CIP, again, one (1) of the items is for extend the Ke Ala Hele Makalae Coastal Path. I do not have the fund amount here. However, as I mentioned before, there are violations of Federal and State laws including Section 106, Section 4(F). NEPA, that is involved in the Ka Ala Makalae Bike Path and we are opposed until there is a time where this process is done correctly. Also, the Kūhiō Highway Widening Project, State D.O.T. Highways, and County support of H.D.O.T. efforts to move project. We are involved in that project as a Section 106 organization, consulting party to the National Historic Preservation Act. The difficulties that we are experiencing is because of the lack of the Government Officials conducting...following the National Historic Preservation Act for what is called a Cultural/Traditional...Traditional/Cultural Property Survey, as well as other items. We are in the process of working with Federal Highways and the State of Hawai'i. However, certain items have not been completed and I just wanted to say and let you folks know, that the movement towards completion of that highway, we have notified them. It will also be in conjunction with these studies being done first because these are also lands. These are significant historical properties and have protection. That includes Wailua beach and the *mauka* side of that on Coco Palms. So, when these studies are done, then we will come to a Memorandum of Agreement and that is when the Federal Highways will be in compliance with Section 106 and other...as well as NEPA. They are in the process of doing a National Environmental Protection Act document because there was actually a categorical exclusion. So, just wanted to testify on those items. Thank you very much.

Ms. Yukimura:

I have a question.

Chair Furfaro:

Councilwoman.

Ms. Yukimura: Just on your question on your first point about the environmental consideration regarding the new landfill. Your position is that an EIS needs to be done prior to selection?

Ms. Palmeira:

Right.

Ms. Yukimura: I have seen projects where the site has already been selected, but they have to show that they considered alternatives. They have to show why the alternatives were not chosen as compared to the one (1) that was. So, I agree with you that in a perfect world you would really go through an excellent conservation of alternatives properly done and then do an EIS on the one (1) that you have selected. But your second point is that we should not purchase the Kalepa site until the EIS is completed, which makes excellent sense because unless an EIS is completed you have not done your environmental due diligence to make sure that that site is the best site.

Ms. Palmeira:

Yes.

Ms. Yukimura:
understand it.

So, there are two (2) pieces to it, as I can

Ms. Palmeira: I believe that the EIS study needs to come first and that funding I am okay with. I mean, we are. We do need an EIS to take place.

Ms. Yukimura: I am not objecting to the funding of the EIS.

Chair Furfaro: Excuse me. She will direct the question to you. You have had your time. If she has another question, you are more than welcome to respond to it. But this period is posing questions. Thank you for that clarification about not opposing that funding.

Ms. Yukimura: Just one (1) other question thank you. On your land title issue, can you give us in writing the names of the references that create what you call "the cloud in the title."

Ms. Palmeira: Okay, I will. When do you need that by?

Chair Furfaro: That is clearly the Vice Chair's choice. I think you brought up some excellent points as it relates to the *ali'i* Kauikeaouli. Obviously you will find similar issues on Maui as you find on Kaua'i where certain land titles gifted from certain *ali'i* from various *ali'i* here, may actually be some confusion in title. Your point is well-taken. As Kaumurali'i may not have actually transferred certain parcels. But that is a land issues here and on Maui that has a lot of ongoing research.

Ms. Palmeira: Yes. We are opposed to a landfill at Kalepa.

Chair Furfaro: Your points are well-taken.

Ms. Yukimura: So, as to when we would like to have the information. I do not think any decision that we are definitive resolution on this issues will be today. So, if you can do it in the next week...

Ms. Palmeira: Well, I mean will you be approving the budget today?

Ms. Yukimura: Yes. But the cloud and title can still be addressed.

Ms. Palmeira: No, but just for the record for the budget process.

Ms. Yukimura: Yes. I understand why you are here speaking your concerns. If you could give it to you for a week. Just give us the...is that alright?

Ms. Palmeira: Well, I had prepared it for this morning. But I had technical difficulties. My printer and...

Chair Furfaro: I am sorry, Waldeen, I did not hear you.

Ms. Palmeira:
my written testimony.

I said I had technical difficulties in getting

Chair Furfaro:
week?

So, I think Vice Chair, you said within a

Ms. Palmeira:
today.

Okay, I may have something in writing by

Ms. Yukimura:

That would be fine, too.

Chair Furfaro: Is there any more public testimony on the
Notice for Public Hearing on the Operating Budget, as well as the CIP? If not,
members, I will close this public hearing and we will be back at the table in, can I
say ten (10) minutes. Thank you very much.

There being no objections, the Public Hearing was adjourned at 9:10 a.m.

Respectfully submitted,


PETER A. NAKAMURA
County Clerk

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